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PATENT
Attorney Docket No. 056222-5070-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
)	
Inventor(s): Jeremy Nicholas NESS et al.)	
)	
Appln. No. 10/524,415)	Group Art Unit: 1616
)	
Filed: February 14, 2005)	Examiner: Soroush, Ali
)	
Title: COMPOSITIONS COMPRISING)	
ENCAPSULATED MATERIAL)	

SUPPLEMENTAL RESPONSE

Commissioner of Patents and Trademarks
U.S. Patent and Trademark Office
Customer Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Supplementing the applicants' response filed December 19, 2007, the applicants note that the cited Ness PCT application WO 02/074430 published September 26, 2002, cited in ¶ 1, page 9 of the Office Action of September 19, 2007, is not properly citable against the present case. More specifically, the present case is a national phase filing of PCT/GB03/0351808, filed August 12, 2003. Accordingly, August 12, 2003 is the applicants' U.S. filing date. This is less than a year after the publication date (September 26, 2002) of the Ness published WO application. Accordingly, the latter can qualify as prior art only under Section 102(e) and this sort of art is not citable against the applicants pursuant to the exception provided under 35 U.S.C. 103(c), i.e. the invention described in the published Ness WO application and the invention claimed herein were commonly owned (by Quest International BV) at the time the present invention was made. It is noted that Ness is in fact a co-inventor herein.

In view of the foregoing, the Examiner is requested to withdraw the Section 103(a) rejection of claims 1-5, 11-20, 25, 27-30, 36-45, 50, 51 and 54-57 based on the published Ness WO application as set out in ¶ 1, page 9 of the action.